



"Rosemary Rodriguez "

03/27/2007 02:20 PM

To jlayson@eac.gov, ddavidson@eac.gov, chunter@eac.gov,
ghillman@eac.gov, rrodriguez@eac.gov
cc twilkey@eac.gov, klynndyson@eac.gov,
jthompson@eac.gov, bwhitener@eac.gov, ekuala@eac.gov,
[REDACTED], sbanks@eac.gov,
bcc

Subject Re: FOR YOUR APPROVAL: Voter ID PR and Roll Out
Strategy

I think we should be prepared to answer a question that may go something like: *What are your specific objections/concerns with the methodologies utilized by Eagleton?*

----- Original Message -----

From: "jlayson@eac.gov" <jlayson@eac.gov>

To: ddavidson@eac.gov; [REDACTED], chunter@eac.gov; ghillman@eac.gov

Cc: twilkey@eac.gov; klynndyson@eac.gov; jthompson@eac.gov; bwhitener@eac.gov;
ekuala@eac.gov; [REDACTED]; sbanks@eac.gov; bbenavides@eac.gov

Sent: Tuesday, March 27, 2007 2:02:01 PM

Subject: FOR YOUR APPROVAL: Voter ID PR and Roll Out Strategy

Commissioners,

I have incorporated your edits, so please take a look at the latest drafts of both documents and let me know if you have further changes. I recommend making this public on Thursday. If possible, please let me know by the end of the day on Wed. if you have additional edits. Press release edits were made in the first two paragraphs, including backing off calling this a "multi-year study," and a more direct description of the action you took -- you declined to adopt the report. The only edit in the memo is new language in the Q&A that points out that the \$500K included work for both prov. voting and voter ID.

Thank you, and let me know if you have any questions.

Jeannie Layson
U.S. Election Assistance Commission
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Washington, DC 20005
Phone: 202-566-3100
www.eac.gov

8:00? 8:25? 8:40? Find a flick in no time
with the Yahoo! Search movie showtime shortcut.

028294



"Hicks, Thomas"

[REDACTED]
[REDACTED]

03/27/2007 04:33 PM

To "jlayson@eac.gov" <jlayson@eac.gov>

cc

bcc

Subject Re: Voter ID

History:

✉ This message has been replied to.

Thank you.

Thomas Hicks, JD

Committee on House Administration

1309 Longworth House Office Building

Washington, DC 20515-6167

202-226-2341 (phone)

202-225-7664 (fax)

-----Original Message-----

From: jlayson@eac.gov <jlayson@eac.gov>

To: Hicks, Thomas

Sent: Tue Mar 27 16:27:11 2007

Subject: Voter ID

Per your request kind sir, I think this is what you were looking for (Page 14. Also see pages 7,8 of the Eagleton paper.). Go here to view the full report: "The results presented here provide evidence that as voter identification requirements vary, voter turnout does as well. This point emerged from both the aggregate data and the individual-level data, although not always for both the maximum and minimum sets of requirements. The overall effect for all registered voters was fairly small, but still statistically significant."

Jeannie Layson

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028295

Jeannie Layson /EAC/GOV
04/02/2007 10:55 AM

To tim.vercellotti [REDACTED], john.weingart [REDACTED]
cc
bcc
Subject the aftermath

I'm sure both of you have already seen the commentary, but just in case you haven't, here it is. Also, I'll let you know if I get any more inquiries about it. Thanks again.

- Congressman Maurice Hinchey Statement on U .S. Election Assistance Commission 's Release of Report on Voter Identification Issues
- EAC Finally Releases Previously Withheld , 9 Month Old Report on 'Voter ID' Concerns After Congressional Prodding
- BREAKING: Federal Election Agency Plays Politics with Voter ID Study (EAC voter ID study)
- Project Vote : Federal Election Agency Plays Politics With Voter ID Study (more Project Vote)
- Is The EAC Being Appropriately Cautious or Cowardly on Voter Identification Research ? (Rick Hasen)
- Conflicted loyalties ? (Donna Brazile: EAC "....can't even agree upon a definition of 'voter fraud,' much less prove its existence")

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028296



"Thomas O'Neill"

04/02/2007 11:41 AM

To jlayson@eac.gov

cc

bcc

Subject RE: the aftermath

History:

✉ This message has been forwarded.

John, Based on the 6 article Layson sent and the others that I distributed over the weekend, I conclude this: We lost the battle, but won the war.

I am concerned about the news that Rush Holt's election reform bill would make the EAC permanent. Perhaps we could arrange to talk to him during the 2 week House Easter break and make some suggestions about how the EAC should be restructured before it is made permanent. (Ray Martinez would, I believe, have much to contribute on that topic.)

Tom

From: jlayson@eac.gov [mailto:jlayson@eac.gov]

Sent: Monday, April 02, 2007 10:56 AM

To: tim.vercellotti; john.weingart

Subject: the aftermath

I'm sure both of you have already seen the commentary, but just in case you haven't, here it is. Also, I'll let you know if I get any more inquiries about it. Thanks again.

- Congressman Maurice Hinchey Statement on U .S. Election Assistance Commission 's Release of Report on Voter Identification Issues
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028297



"Thomas O'Neill"

04/02/2007 11:44 AM

To jlayson@eac.gov

cc

bcc

Subject RE: the aftermath

Jeannie, Please ignore and delete my previous email, which I sent to you in error.

Sorry for the confusion,

Tom O'Neill

From: jlayson@eac.gov [mailto:jlayson@eac.gov]

Sent: Monday, April 02, 2007 10:56 AM

To: tim.vercellotti@eac.gov, john.weingart@eac.gov

Subject: the aftermath

I'm sure both of you have already seen the commentary, but just in case you haven't, here it is. Also, I'll let you know if I get any more inquiries about it. Thanks again.

- [Congressman Maurice Hinchey Statement on U .S. Election Assistance Commission 's Release of Report on Voter Identification Issues](#)
- [EAC Finally Releases Previously Withheld , 9 Month Old Report on 'Voter ID' Concerns After Congressional Prodding](#)
- [BREAKING: Federal Election Agency Plays Politics with Voter ID Study](#) (EAC voter ID study)
- [Project Vote : Federal Election Agency Plays Politics With Voter ID Study](#) (more Project Vote)
- [Is The EAC Being Appropriately Cautious or Cowardly on Voter Identification Research ?](#) (Rick Hasen)
- [Conflicted loyalties ?](#) (Donna Brazile: EAC ".....can't even agree upon a definition of 'voter fraud,' much less prove its existence")

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028298

Jeannie Layson /EAC/GOV
04/03/2007 04:05 PM

To "Meg Cox" <mcox@~~XXXXXXXXXXXXXXXXXXXX~~>
cc
bcc
Subject Re: your inquiry

Ms. Cox,
I will answer all of your questions, but per my phone message, I am not sure what you are asking in question #5. If you think that I was dishonest or misleading, I would be glad to answer direct questions about my character. Regardless, I will answer the question and all of the others.

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Phone: 202-566-3100
www.eac.gov
"Meg Cox" <~~XXXXXXXXXXXXXXXXXXXX~~>



"Meg Cox" <~~XXXXXXXXXXXXXXXXXXXX~~>
>
04/03/2007 03:54 PM

To jlayson@eac.gov
cc
Subject Re: your inquiry

Thank you, Jeanne, for your assistance.

I did already had the Status Report from, I believe, May 2006, and the December report that you just sent me.

In my research for this article on voter ID for the Christian Century magazine, I'm trying to track the voter-fraud, voter ID connection. The two EAC reports, one by Wang and Serebrov and the other by Moritz College of Law and the Eagleton Institute, are both crucial to this discussion. (I am a freelance journalist and am writing on election reform for other outlets as well.)

I understand that the original Moritz/Eagleton report has now been released, though not adopted, by the commission, whereas the Wang/Serebrov report was never released in its original form.

My questions:

- 1) You said that the Wang/Serebrov report has not been released because it was predecisional. Was the Moritz/Eagleton report released because it was not predecisional?
- 2) I understood you to say that the December EAC report includes all of the Wang/Serebrov recommendations but not all of the Wang/Serebrov findings. Is that correct?
- 3) I understood you to say that EAC staff added results of their own research

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to the December EAC report. Is that correct?

4) If I'm correct on questions 2 and 3, would it be accurate to say that readers of the December report cannot tell how much of that report does and does not reflect the original Wang/Serebrov findings?

5) I called earlier today requesting the Wang/Serebrov report, and you sent me the December EAC report. I am concerned that if I had not already been researching this closely, I would have thought that you'd sent me the Wang/Serebrov report and would have reported incorrectly that you had. Does the EAC have any comment on this manner of replying to press inquiries? (I contacted you to request the report after I read in the Statesman Journal of Salem, Oregon, an article by Marie Cocco that says: "The bipartisan commission didn't widely release the consultants' review, but makes it available on request." Did the EAC indeed give Ms. Cocco a copy of the "consultants' review"? Or has she misunderstood you in the way I'm concerned about?)

6) I understood you to say that the EAC did not release the Wang/Serebrov report in its original form because the EAC has to do due diligence and its staff is small. Do I understand you correctly? What form of due diligence does the EAC's staff routinely conduct on research that is contracted out to experts before that research is released? You mentioned "vetting" the research. What does that vetting entail?

Thank you for your time.

Meg Cox
Freelance journalist
Chicago
~~██████████~~

028300

Jeannie Layson /EAC/GOV
04/11/2007 10:26 AM

To StricklerL@cbsnews.com
cc
bcc
Subject your questions

Laura,

The fraud and intimidation research contract was for \$147,106, and the voter ID and provisional voting research contract was \$560,002. Voter ID was only part of the contract. It also tasked Eagleton to provide information about provisional voting practices. In Oct. 2006, the Commission issued provisional voting best practices.

Please let me know if you need anything else, and I'll send you the statement as soon as it's ready to go.

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028301

Bryan Whitener /EAC/GOV

04/11/2007 05:49 PM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.

bcc

Subject FYI - Today's media inquiries (4-11-07, Wed)

Commissioners:

Today we had the following media inquiries:

(1) Commissioner Hillman was interviewed by Allison Keyes of NPR about the fraud report. Commissioner Hillman explained the scope of the contract and that we asked the contractors to do two things: define voter fraud and intimidation and provide recommendations for future study on these topics. The commissioner pointed out that we did not ask them for conclusions. The reporter asked if it was true that EAC was trying to suppress information about voter intimidation among minorities. The commissioner said she had worked all her life to prevent minorities from being intimidated at the polls, and that she was very anxious to embark upon a more expansive study on this very topic. The commissioner said the agency was transparent, and talked about our public meetings and the transcripts and testimony that were available to the public through our website.

NOTE: The interview will be aired repeatedly this evening on the five minute newscast at the top and bottom of the hour. To listen, tune into WAMU 88.5 FM American University Radio or Listen Live.

(2) Laura Strickler of CBS News wanted to know how much we spent on the fraud report and the voter ID report. We told her the fraud and intimidation research contract was for \$147,106, and the voter ID and provisional voting research contract was \$560,002. We explained that voter ID was only part of the contract. It also tasked Eagleton to provide information about provisional voting practices. In Oct. 2006, the Commission issued provisional voting best practices.

(3) Rich Wolfe of USA Today is working on a story on what states will have to do if Rush Holt's bill is enacted. He asked for details on what states and vendors are currently facing in order to transition from the 2002 to the 2005 voting system guidelines which we provided. Brian Hancock also spoke with him on background about the testing and certification program. Mr. Wolf wanted to know more details regarding the differences in the VSS 2002 and the VVSG 2005. Brian explained that the most significant changes related to accessibility and usability. His real concern was what practical effect the VVSG would have on elections 2008. We noted that more than the VVSG, the changes brought about by the EAC implementation of our Testing and Certification Program might have just as big an impact. We noted that we would not be grandfathering any NASED systems, and that if State law required EAC certification, the manufacturers would need to bring their voting systems through the EAC program for full testing. We also explained the implementation date of December 2005 and that as of that date, no systems could apply for testing to the 2002 VSS. We also made sure that Mr. Wolf understood that the EAC program was voluntary and that participation in the EAC certification program would be driven ultimately by the statutes, regulations or procedures in each of the States.

(4) Paul DeGregorio called to let us know he was interviewed by Adam Stichko of the St. Louis Post Dispatch about the fraud report. The reporter wanted to know if the reaction was a major setback for the agency. Paul said no, and that as EAC noted in its statement, it was going to improve its internal operations. He pointed out that sometimes EAC makes tough decisions that both sides of the aisle might not agree upon. But regardless, he said the agency has a responsibility to conduct due diligence, and make the tough decisions. He talked about what we have accomplished and the assistance we provide -- best practices, quick starts, VVSG and certification program.

(5) Meg Cox a freelance writer in Chicago asked what prompted EAC's Statement Regarding Research &

028302

Contracting Policies and whether something new happened in Congress to prompt the statement. We said that the statement contains the information.

(6) Ross Tuttle of Los Angeles was in town today and is working on a documentary series titled "The Freedom Files" which includes an episode on voting rights. He asked for EAC's statement in response to the NYT article on the release of the report. We sent him today's statement.

(7) Kat Zambon of electionline.org asked if other states have a similar partnership arrangement that the Secretary of State in Georgia has with Kennesaw State University to provide technical support for the state's voting machines, as well as outreach, education, ballot design, training and consultation. We said this is the only one that we are aware of.

(8) John Gideon of Voters Unite and Brad Blog had the following questions, and Jeannie's responses follow:

A. How does the EAC see their position as a "clearinghouse" of information as required by HAVA? We follow the mandates of HAVA regarding our responsibilities to conduct studies about election administration issues. The results of those studies make up the "clearinghouse." B. What responsibility does the EAC have with regard to warning states about what may be security vulnerabilities in specific voting systems? The EAC certification program will collect anomaly reports (go here to view the form), which we will then investigate and share with election officials and the public. C. Chairwoman Davidson has said that the EAC's middle name is "Assistance". How does ignoring potential security issues fit into that theme? As I mentioned above, monitoring anomalies is part of our certification program. As we've discussed before, the system you are referring to was not certified by EAC. If the manufacturer of this system wants an EAC certification for this system, it would have to successfully complete our certification process and adhere to all of its rules. EAC did not grandfather any systems already in use (meaning that we did not automatically issue certifications or transfer NASED qualifications to existing systems), including the one you referenced. Mr. Gideon replied that he was amazed that instead of answering the questions I conflated the certification of voting systems with a security vulnerability that is in existence across the country. He asserted this issue had nothing to do with the EAC certification program. I replied that the very fact that we have set up a system to track voting system anomalies is evidence that we think monitoring performance is very important. Again, as we have discussed many times, we did not certify this voting system. If it successfully completes EAC's certification program in the future, then it would be subject to our rules and conditions, and if a problem occurs we would notify the election community and the public.

###

Jeannie Layson /EAC/GOV
04/17/2007 12:43 PM

To "Paul DeGregorio"
<pauldegregorio@gmail.com>@GSAEXTERNAL
cc
bcc
Subject Re: Post-Dispatch editorial

I have executive director reports that I wrote in which he gives an update on all of the research we're working on, including voter ID and voter fraud. In addition the commissioners have talked about the research we're working on - including voter ID and voter fraud - in many different public settings, such as NASS, NASED, and Election Center. And we discussed these projects in depth in the 2005 and 2005 annual reports.

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Phone: 202-566-3100
www.eac.gov
"Paul DeGregorio" <pauldegregorio@gmail.com>



"Paul DeGregorio"
<pauldegregorio@gmail.com>
>
04/17/2007 12:15 PM

To "jlayson@eac.gov" <jlayson@eac.gov>
cc
Subject Re: Post-Dispatch editorial

in doing a search on the EAC website, the first time there is a finding of the words "Eagleton" or "Rutgers" is the Feb 2007 meeting. I can't find where Tom discussed the project at one of our monthly public meetings.

On 4/17/07, jlayson@eac.gov <jlayson@eac.gov> wrote:

yes, you are correct. Eagleton focused on provisional voting.

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"Paul DeGregorio" <pauldegregorio@gmail.com>

04/17/2007 11:57 AM

To "jlayson@eac.gov" <jlayson@eac.gov>
cc

028304

Subject Re: Post-Dispatch editorial

Jeannie,

In looking at the May 2006 agenda of the Standards Board and Board of Advisors, I see the topic listed as Provisional vote study not Voter ID. Do you know if the documents given to the Board members (and public) included the Voter ID research? I want to be 100% accurate in my response. Thanks.

Paul

On 4/17/07, jlayson@eac.gov <jlayson@eac.gov> wrote:

Good morning! Per your questions, the Standards Bd. and the Board of Advisors received an update on the voter ID report at a public meeting in May 2006. Go [here](#) . EAC held a public meeting in Feb. 2007 which the consultants testified and the commissioners asked questions about the methodology. Go [here](#) . In addition, the executive director routinely provides an update on research projects underway at public meetings in his executive director report. Since we post transcripts of our public meetings, these updates are also available on our website.

Also, it certainly was not a five year study. Considering that commissioners weren't appointed until Dec. 2003 and the first full year of EAC operations was 2004 with a budget of \$1.2 million, that is not even possible. We've only been in existence for about four years.

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"Paul DeGregorio" <pauldegregorio@gmail.com>

04/17/2007 10:03 AM

To "jlayson@eac.gov" <jlayson@eac.gov>

cc

Subject Post-Dispatch editorial

028305

Hi Jeannie,

The St. Louis Post-Dispatch has an editorial today that once again distorts and misreports the facts regarding the EAC voter ID and voter fraud reports. I believe the editorial should not go unanswered. Please review the attached letter to the editor and let me know what you think. There are some dates in my response that I need from you (when we discussed the voter ID report at our public meetings).

You can go here

<http://www.stltoday.com/stltoday/news/stories.nsf/editorialcommentary/story/6CB075FC49517AB2862572BF0081E1DB?OpenDocument> (or read below) to see the editorial. Thanks.

Paul



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Snipe hunting in Jeff City

Tuesday, Apr. 17 2007

The Missouri Legislature's dogged efforts to crack down on voter fraud call to mind the hallowed tradition of the snipe hunt.

In a snipe hunt, gullible kids are taken out to the woods, handed sticks and gunny sacks and told to track down the elusive snipe. Meanwhile, their pals, who know a snipe is a bird of marsh and shore generally found nowhere near the woods, yuck it up.

Voter fraud is about as rare as snipe in most parts of the country, including Missouri. As evidence of that we have the testimony of (a) a five-year study by the federal Election Assistance Commission; (b) a report from the Missouri Secretary of State showing nobody in the state tried to vote with a fake I.D. in 2006; (c) Department of Justice statistics showing only 86 people were convicted of voter fraud-related crimes in the last five years, many of them on trivial errors; and (d) a federal judge's ruling last week that the justice department had failed to demonstrate that voter fraud had occurred in Missouri

028306

last year.

Undaunted by these facts, Republicans in the Legislature lurk about like Elmer Fudd with their gunny sacks and sticks, promoting bills to require voters to present photo identification before they're allowed to cast a ballot. They passed such a bill last year, but the courts threw it out as unfair to those who couldn't afford the cost and hassle involved in getting a photo I.D. card.

This year's versions of the photo I.D. bills would allow voters without photo I.D. to cast "provisional ballots," which may or may not get counted. So, despite the fact that a photo I.D. requirement would disenfranchise many voters in the cause of solving a problem that doesn't exist, the Missouri House could pass such a bill this week.

Evidence continues to mount that the hunt master for the national voter I.D. snipe hunt is none other than Karl Rove, President George W. Bush's deputy chief of staff and political guru. As The New York Times suggested Sunday, "The more we learn about the White House purge of United States attorneys, the more a single thread runs through it: the Bush administration's campaign to transform the minor problem of voter fraud into a supposed national scourge."

Not only did the administration suggest that some of the eight fired prosecutors had been insufficiently aggressive in pursuing voter fraud cases, it changed the wording of the Election Assistance Commission's findings on the voter fraud issue. What originally read, "there is widespread but not unanimous agreement that there is little polling place fraud" became "there is a great deal of debate on the pervasiveness of fraud."

Moreover, the release of the commission's report was delayed for nine months, during which period eight states, including Missouri, dealt with voter I.D. laws. Since the 3 percent to 4 percent of the electorate who don't have photo I.D.s tend to be poor, disabled or elderly voters, suppressing their vote would tend to help Republican candidates.

Investigators looking for evidence of fraud need look no further than the e-mail messages emanating from Mr. Rove's offices. Alas, thousands, perhaps millions, of those messages are now "missing." Perhaps Attorney General Alberto Gonzales will shed some light on the problem when his testimony before the Senate Judiciary Committee is rescheduled. In the meantime, Missouri lawmakers should put down the sticks and gunny sacks and back slowly out of the woods before their constituents realize they've been snookered, too.

If you enjoy reading about interesting news, you might like the 3 O'Clock Stir from STLtoday.com. Sign up and you'll receive an email with unique stories of the day, every Monday-Friday, at no charge.

Sign up at <http://newsletters.stltoday.com>

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Paul DeGregorio
pauldegregorio@gmail.com

--

Paul DeGregorio
pauldegregorio@gmail.com

--

Paul DeGregorio
pauldegregorio@gmail.com

Jeannie Layson /EAC/GOV

04/19/2007 01:31 PM

To "Carney, Eliza"

cc

bcc

Subject RE: your interview with Donetta

Eliza,

At the public meeting in February about the voter ID project, in which the consultants participated, Donetta instructed the executive director to provide recommendations on how to proceed with this project w/n 30 days. Here's her quote from the transcript: "And I'm going to request our executive director, within 30 days, to make a recommendation to the Commission on how we determine how to move forward and what the final outcome of this initial research will be, and we will notify everybody." Go here if you'd like to view the transcript.

The commission's decision to not adopt but to release all of the data was on March 30, which did occur after the March 7 hearing.

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"Carney, Eliza"



"Carney, Eliza"

04/19/2007 01:11 PM

To jlayson@eac.gov

cc

Subject RE: your interview with Donetta

Thanks.

I do have one question. Congressman Hinchey told me in an interview that the EAC had posted its Voter ID report on its web site shortly after he requested it at a March 7 Appropriations subcommittee hearing. The Brennan Center also pegs the posting of the Voter ID report to March 30, after the hearing. Chairwoman Davidson stated, however, that the Voter ID report had been released prior to the hearing. Can you clear up whether the report was posted before or after the March 7 hearing when it was requested?

Thanks for all your help with this.

-- Eliza.

From: jlayson@eac.gov [mailto:jlayson@eac.gov]

028309

Sent: Thu 4/19/2007 1:09 PM
To: Carney, Eliza
Subject: your interview with Donetta

Just wanted to make sure you got everything you needed...

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028310

Bryan Whitener /EAC/GOV
04/30/2007 06:03 PM

To Donetta L. Davidson/EAC/GOV@EAC, Rosemary E. Rodriguez/EAC/GOV@EAC, Caroline C. Hunter/EAC/GOV@EAC, Gracia Hillman/EAC/GOV@EAC
cc Bert A. Benavides/EAC/GOV@EAC, Bola Olu/EAC/GOV@EAC, Brian Hancock/EAC/GOV@EAC, Curtis Crider/EAC/GOV@EAC, DeAnna M.

bcc

Subject FYI - Today's media inquiries (4-30-07, Mon)

Commissioners,

(1) Leslie Clark of the Miami Herald plans to attend tomorrow's public meeting. Today she asked whether Florida is required to abide by EAC reply to their request. We said that EAC is the cognizant agency for most of the HAVA funding programs. We said that EAC therefore has the responsibility to advise and instruct states regarding the appropriate use of these funds consistent with the provisions of HAVA as well as circulars developed by OMB Circulars A-87 which governs the use of federal funds to purchase goods for state and local governments.

(2) Dana Burke, News Editor for the Citizen in Webster, TX is working on a story regarding voter identification requirements in Texas. She said Democrats opposed to the new legislation have referred to EAC's voter ID study and point to a correlation between more stringent voter id requirements and lower voter turnout, especially among minority groups. She noticed EAC's statement regarding a request for review, asked if the study is considered valid and whether the assessment by opponents of the legislation is correct. We sent her the following two links and replied that our Inspector General is currently reviewing the circumstances surrounding this research and that when that process is complete we'll be glad to discuss it further.

04/16/07 - EAC Requests Review of Voter ID , Vote Fraud & Voter Intimidation Research Projects

News Release : 3/30/07 - EAC to Launch Comprehensive Study of Voter ID Laws

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028311



EAGLETON INSTITUTE OF POLITICS

0

FAX COVER SHEET

Date:

4/19/07

To:

Donetta Davidson

Fax Number:

202-566-1392

Phone Number:

Total Number of Pages (including cover sheet):

2

Comments:

dist. to AC/ED
4/23/07

EC

From:

John Wengert

191 RYDERS LANE, NEW BRUNSWICK, NJ 08901-8557

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS

028312



EAGLETON INSTITUTE OF POLITICS


April 19, 2007

Donetta Davidson, Chair
U.S. Election Assistance Commission
1225 New York Avenue, NW
Suite 1100
Washington, D.C. 20005

Dear Chair Davidson:

I am attaching a copy of a memo I am sending to Adam Abroggi, Counsel for the Senate Committee on Rules and Administration, responding to his request for information about the Eagleton Institute of Politics' contract with the EAC. If you or your staff notice any errors or significant omissions in my summary of our work and coordination with you, please let me know. Also, please don't hesitate to contact us if there are any other ways in which we can help you to advance informed public consideration of provisional voting, voter identification and the other important issues within your purview.

Sincerely,


John Weingart
Associate Director

Cc: Tom Wilkey, Executive Director
U.S. EAC

From: John Weingart, Associate Director
Eagleton Institute of Politics

April 19, 2007

Adam

In response to your April 10th request, I have pulled together some information about the Eagleton Institute of Politics' contract with the U.S. Election Assistance Commission. Although I did not have a chance to do the thorough review, including comparing notes with all the members of our research team, that would be necessary to compile a full chronology of our work, I hope the following will be useful to you. I will be giving a copy of this memo to EAC Chair Donetta Davidson and Executive Director Tom Wilkey for any assistance it may offer them in responding to Senators Feinstein and Durbin's April 12th letter.

By way of background, Rutgers University's Eagleton Institute of Politics submitted a proposal to the EAC on March 25, 2005 to provide "research assistance to the Election Assistance Commission for the development of voluntary guidance on provisional voting and voter identification procedures." The proposal was submitted after extensive discussions with EAC Commissioners and staff that had begun on Election Day, 2004 when Eagleton had received a phone call from the EAC's then-Executive Director asking if the Institute would be interested in undertaking this work.

The proposal was prepared and submitted in partnership with the Moritz College of Law at Ohio State University. At the EAC's request, we proposed to handle the two research topics in sequence, first submitting a report on Provisional Voting and then preparing and submitting the report on Voter Identification. In describing the Voter Identification portion of the study, the proposal stated:

"We propose to test the hypothesis that more stringent voter ID requirements depress voter participation in general or for the poor, minorities and older voters in particular."

The proposal also included a plan to form a peer review group composed of scholars and practitioners in the areas of elections and voting to examine and comment on the research

The following pages provide a preliminary summary of our major contacts with the EAC during the course of the contract, with a focus on our work on Voter Identification. More extensive review of our files, including the monthly progress reports we submitted to the EAC, may find other relevant discussions, but this list at a minimum should provide a good overview.

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS

028314



EAGLETON INSTITUTE OF POLITICS

To: Adam Ambrogi, Counsel

028315

May 25, 2005 - Contract awarded

May 26, 2005 - First meeting of Eagleton-Moritz team with EAC Commissioners and staff in Washington. After general discussion of EAC interest in both topics, Commissioner DiGregorio expresses concern that the composition of the project's peer review group was politically unbalanced. Eagleton had proposed including the following five individuals: R. Michael Alvarez, Professor of Political Science at California Institute of Technology; Martha E. Kropf, Assistant Professor of Political Science at the University of Missouri-Kansas City; Daniel H. Lowenstein, Professor of Law at UCLA; Tim Storey, Program Principal at the National Conference of State Legislatures; and Peter G. Verniero, former New Jersey Attorney General and Supreme Court Justice and current Counsel to Sills, Cummis, Epstein and Gross.

Commissioner DiGregorio subsequently suggests other names for our consideration. We are impressed by the list of people he provides and add three of them to the Peer Review Group: John C. Harrison, Professor of Law at the University of Virginia; Timothy G. O'Rourke, Dean of the Fulton School of Liberal Arts at Salisbury University; and Bradley Smith, Professor of Law at Capital University Law School. The Project Peer Review Group then had eight participants.

July 28, 2005 - Brief EAC Commissioners at a public meeting at Cal Tech on progress on the research. Briefing includes this status report on the Voter ID phase of the work: "statistical analysis to gauge the effect of a state's voter ID regime on turnout, especially turnout by minority and elderly voters will be complete in late August."

August 9, 2005 - First telephone conference with Peer Review Group. Focus is draft Provisional Voting report.

September 6, 2005 - Meet with the EAC in Washington. Brief the Commission on the status of the research on provisional voting.

September 21, 2005 - Second telephone meeting of Project Peer Review Group.

September 30, 2005 - Conference call with EAC Commissioner Martinez and three members of the staff. Commissioner Martinez indicates EAC is generally more comfortable playing the role of a national clearinghouse and therefore prefers to issue reports as "Best Practices" than as "Provisional Guidance." Staff says Eagleton emphasis should be on what states should do as opposed to suggesting how they would do it. Commissioner Martinez concludes meeting saying, "We have been very well served by all the work you and Moritz have done."

09-27-00 a.m. 09-18-2007 3/10

Feb. 22, 2006 - Conference call with Project Peer Review Group members after they have reviewed first draft of Voter Identification report. The Peer Reviewers suggest the statistical analysis: (1) Look at whether voter identification requirements are related to voter registration rates, as well as turnout; (2) Describe in further detail the basis for the aggregate and individual-level data analyses; (3) Clarify whether the report is examining turnout among citizens eligible to vote, or all individuals of voting age; (4) Stress in a footnote that Hispanics in the individual-level analysis are Hispanics who describe themselves as citizens who are eligible to vote; (5) Discuss in the Appendix the reasons why turnout rates appear to be higher in the Current Population Survey data than in other sources of data; and (6) Use predicted probabilities as opposed to odds ratios to describe the relationship between voter identification requirements and turnout.

Eagleton subsequently revises draft of the statistical analysis to address all these issues.

March 28, 2006 - Conference call with EAC staff and Eagleton-Moritz research team in advance of team's scheduled briefings of EAC Commissioners in Washington, D.C. on Provisional Voting and Voter Identification reports.

April 3, 2006 - Eagleton-Moritz morning meeting in Washington with EAC Commissioners Davidson and Hillman and staff members. Series of questions and responses on Voter ID methodology.

Commissioners ask whether respondents to the Current Population Survey might be non-citizens who said they were registered and voted. In a subsequent follow-up e-mail, Tim Vercellotti of Eagleton writes that the design of the CPS questionnaire skips non-citizens past questions about registration and voting. Commissioner Davidson asks if the team could examine the relationship between identification requirements and turnout over time. Team members respond that the information on state identification requirements for previous election cycles would require additional extensive research. Commissioner Hillman asks if the report could break out the relationship between voter identification and turnout for African-Americans with education levels of a high school diploma or less, or African-Americans below the poverty line.

Subsequent analyses examined these subgroups as suggested.

Eagleton-Moritz afternoon meeting with Commissioners DiGregorio and Martinez and EAC staff. Series of questions and answers. Commissioner DiGregorio concludes he is "disappointed" with the report. Commissioner Martinez says he "appreciates" it.

April 13, 2006 - Conference call between Eagleton and EAC staff. EAC requests that Eagleton convene a conference call of the Project Peer Review Group with EAC staff and/or Commissioners to discuss the statistical analysis of the effects of various Voter Identification requirements on turnout.

EAC staff also reports that the EAC is going to convene its own second peer review group to seek feedback on review by the Project Peer Review Group.

(April 13, 2006 continued)

EAC staff also reports that Eagleton is on the preliminary schedule to present Voter ID findings to the EAC's Advisory Board May meeting but that the date and location have not yet been set. EAC staff say they are "unsure where Voter ID project is going. We're going to have to see. We saw lines really drawn politically over Voter ID piece. We'll have to see what statements the agency chooses to make over this topic. It is the topic - It has nothing to do with you. The timing is such that Voter ID is a hot topic."

April 28, 2006 -Eagleton informs EAC by email of its understanding of status of Voter ID project: "We presented our Voter ID research to the commissioners in April and are now revising it in line with their comments; that revised research paper will be discussed in mid-May by reviewers selected by the Commission. That date was set specifically to allow us to prepare a final report that would be ready for review by the Advisory Board on May 24; ...The appropriate conclusion for our work is a presentation of findings and recommendations for both Provisional Voting and Voter ID, 2 closely related topics, to the Commission at its public meeting in late June..."

May 1, 2006 - EAC informs Eagleton that it is on the schedule to brief EAC Advisory Boards on both Provisional Voting and Voter ID on May 23 and 24, but asks that we plan on making four separate presentations to the boards over the two days.

May 11, 2006 - Conference call on Voter Identification draft with some of original Project Peer Review group, second group of peer reviewers assembled by EAC, and EAC staff. Second group includes the three individuals noted in entry above for May 26, 2005.

One of new reviewers says that using a five-category ordinal variable in the statistical models to characterize the five types of voter identification requirements might rest on unrealistic assumptions. He recommends using five dichotomous variables, also known as dummy variables, for the requirements instead. He also recommends using predicted probabilities to assess the relationship between identification requirements and turnout in the individual-level data. Two of the original Project Peer Review Group recommend including analyses using the ordinal-level variables in the appendix for comparative purposes.

Subsequent drafts incorporate all these suggestions.

Two of new reviewers also recommend that the models assume age has a curvilinear effect on turnout, with turnout rising, then falling, as voters age. They recommend using both age and age-squared in the models, or age broken down into dummy variables.

Subsequent drafts use a series of dummy variables to capture the curvilinear relationship between age and turnout.

(May 11, 2006 continued)

One of original peer reviewers recommends further explanation clarifying that the turnout rates for the states using aggregate data make clear the rates for each state reflect an average of the turnout across the counties in the state. Same reviewer also recommends expanding the discussion of maximum and minimum requirements to add more detail about the distinctions between the two types of requirements.

Subsequent drafts of the statistical analysis incorporate all these changes.

One of new reviewers expresses concern about the omission of two important contextual predictors of turnout - the number of days between the close of registration and Election Day, and a measure of which states have Election Day registration.

Subsequent analyses examine the effects of these variables on aggregate turnout.

New reviewer also recommends breaking out Asian-American voters when looking at the relationship between voter identification and turnout.

Subsequent drafts incorporate this suggestion by including Asian-Americans in the individual-level analyses.

May 23-24, 2006 - Research team briefs EAC Standards Board and EAC Board of Advisers in Washington, D.C. regarding the Provisional Voting report. The Voter Identification report, originally on the agenda, is dropped before the meeting.

June 6 (?), 2006 - Letter from Project Director Tom O'Neill to Commissioner Paul DiGregorio responding to the Commission's hesitancy to publish best practices recommendation on Provisional Voting and questions on how to handle research on Voter ID. Excerpt from letter: "We hope the commission will use the reports, as intended from the outset of this project, as the basis for recommendations for better, if not best, practices to the states. If the Commission cannot decide to issue such recommendations to the states, we hope it will release the reports to provide the states and the broader elections community with this information, analysis and perspective on the issues. We recognize, based on the reactions at the Standards Board and, particularly, the Board of Advisors, that some of the findings, conclusions, and recommendations of the reports will be controversial with some of the Commission's constituencies. But we also believe, based on the comments of the Peer Review Group, the advisors assembled by the Commission, and our response to their critiques, that the reports are grounded in solid research by a well-qualified, nonpartisan team and that the reports will provide new information for the policy process. We believe this information will contribute to achieving the EAC mission of providing helpful information that the states may or may not choose to implement. . . . We believe our reports will prove useful to the states as they complete preparations for the 2006 elections."

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June 15, 2006 - EAC Executive Director writes to Eagleton saying "...The EAC Commissioners have reviewed and considered next steps with the voter identification draft report which Eagleton has prepared. While the final disposition of the results and findings of this study, on the part of the EAC, are still unclear, the Commissioners have asked that the final draft report of this study also be prepared and submitted to the EAC not later than June 30, 2006.

June 29, 2006 - Eagleton-Moritz submits to the EAC its final reports on Provisional Voting and on Voter Identification referring to Voter ID paper as "final draft" at EAC request. First of five major recommendations on Voter ID from Eagleton-Moritz is:

The EAC should "encourage or sponsor further research to clarify the connection between Voter ID requirements and the number of potential voters actually able to cast a ballot that is actually counted."

August 16, 2006 - Eagleton writes to request that the EAC make "the two reports available for use by researchers, legislators, election officials and others interested in these topics." Letter notes: "That the EAC originally commissioned these studies to offer lessons for the 2006 elections based on experience in 2004 further supports the importance of quick action."

August 31, 2006 - EAC Executive Director responds: "You may not release the draft report [on Voter ID]...as this report has not been finalized and has not been officially released by the EAC."

February 8, 2007 - Eagleton presents voter identification findings to public meeting of the EAC in Washington. Transcript of the public meeting is available on the EAC web site.

October 17, 2006 - EAC Executive Director responds to request from Brennan Center for Justice at NYU Law School sending "draft report on provisional voting, prepared by the Eagleton Institute of Politics and the Moritz College of Law." Letter notes, "EAC personnel are in the process of drafting a report about voter identification. The report will be made available upon completion."

October 27, 2006 - Eagleton writes to EAC Executive Director saying, "We are...disappointed that you are not ready to do the same [release] our report on Voter Identification. We would appreciate knowing approximately when you expect to complete the review and consideration of advisory board concerns you mention to Ms. Weiser" [of the Brennan Center]

March 30, 2007 - EAC posts Voter Identification paper on its web site and issues statement concluding of the report that "The Commission and our contractor agree that the research conducted for EAC raises more questions than provides answers."

TRANSMISSION VERIFICATION REPORT

TIME : 04/19/2007 16:49
NAME : ELECTION ASSIST COMM
FAX : 2025661392
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SER.# : **XXXXXXXXXX**

DATE, TIME
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U.S. ELECTION ASSISTANCE COMMISSION

FAX COVER SHEET

Fax: 202/566-1392

Direct: 202/566-3100

Toll Free: 866-747-1471

DATE: 4/18/2007

TO: **Commissioner Donetta Davidson**

FAX NUMBER: **816-391-4438**

FROM: **Sheila Banks**

NUMBER OF PAGES (INCLUDING COVER PAGE): **9**

MESSAGE:

028321



U.S. ELECTION ASSISTANCE COMMISSION

FAX COVER SHEET

Fax: 202/566-3127

Direct: 202/566-3100

Toll Free: 866-747-1471

DATE: November 23, 2005

TO: Craig Donsanto, U.S. Department of Justice

Fax Number: 202-514-3003

FROM: Peggy Sims

NUMBER OF PAGES (INCLUDING COVER PAGE): 3

MESSAGE

ORIGINAL TO FOLLOW BY MAIL.

028324



U.S. ELECTION ASSISTANCE COMMISSION
1225 NEW YORK AVENUE, N.W., SUITE 1100
WASHINGTON, D.C. 20005

OFFICE OF THE CHAIR

November 23, 2005

Craig C. Donsanto
Election Crimes Branch
U.S. Department of Justice
Bond Building
1400 New York Avenue, NW, 12th Floor
Washington, DC 20005

Dear Mr. Donsanto:

The U.S. Election Assistance Commission (EAC) has undertaken a short term project to research voting fraud and voter intimidation. As an expert in the prosecution of election crimes, your expertise and unique experience would be a valuable resource as we move forward. I am writing to ask if you will be available to advise and inform our efforts.

As you know, EAC is a federal agency established in accordance with section 201 of the Help America Vote Act of 2002 (HAVA), Public Law 107-252. HAVA requires EAC to conduct research regarding election administration issues. The election administration issues itemized in the statute include:

- Collecting nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for federal office [section 241(b)(6)]
- Identifying, deterring, and investigating methods of voter intimidation [section 241(b)(7)]

The EAC Board of Advisors, established in accordance with HAVA section 211, recommended that EAC place a high priority on these topics when initiating our research projects. Subsequently, EAC obtained the services of two consultants (Tova Wang and Job Serebrov) to:

- **Define Voting Fraud and Voter Intimidation** - develop a comprehensive description of what constitutes voting fraud and voter intimidation in the context of federal elections;
- **Research Available Resources** - perform background research (including federal and state administrative and case law review), identify

current activities of key government agencies, and civic and advocacy organizations regarding these topics, and summarize this research and all source documentation;

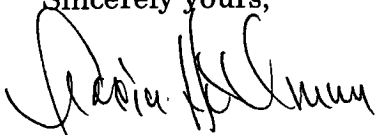
- **Establish a Project Working Group** - in consultation with EAC, establish a working group composed of key individuals and representatives of organizations knowledgeable about voting fraud and voter intimidation, provide a description of what constitutes voting fraud and voter intimidation and the results of the background research to the group, and convene the group to discuss potential avenues for future EAC research on this topic;
- **Produce a Report** - Provide a report to EAC summarizing the preliminary research and working group deliberations, including recommendations for future EAC research, if any;
- **Assist EAC in Initiating Future Research** - if EAC decides to pursue one or more recommendations for future research, draft the project scope and statement of work for the request for proposals.

The EAC manager for this project is Peggy Sims. It would be most helpful if you could offer your expertise to Ms. Sims and our team of consultants. Ms. Sims will contact you to follow up on this request. If you are able to assist us, she will set up an initial interview, which will focus on the identification and prosecution of offenses involving voting fraud and voter intimidation, as well as possible resources on these subjects for our consultants' review. Our consultants and project manager may have follow up questions as the research proceeds. It also would be helpful if you would be able to attend the working group meeting to contribute to its discussion. This meeting will likely be held in February 2006.

If you have any questions about the research or this request, please contact Peggy Sims by email at psims@eac.gov or by phone at 202-566-3120.

Thank you so much for your consideration of this request.

Sincerely yours,



Gracia Hillman
Chair



U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

December 1, 2005

The Honorable Garcia Hillman
Chair
United States Election Assistance Commission
1225 New York Avenue, N.W.
Washington, DC 20005

Dear Madam Chair:

I am in receipt of your letter of November 23, 2005 requesting my assistance in the development of a statutorily mandated report on voter fraud and intimidation that the Commission is currently undertaking.

I would be pleased, indeed honored, to assist you and the Commission in this matter and invite Ms. Sims of your staff to contact me at her convenience to discuss this matter further with me.

Sincerely,

Craig C. Donsanto
Director, Election Crimes Branch
Public Integrity Section

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